IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 2841 of 1998

Between:

R.Shanker, S/o. Ramaiah
Andhra Bank, Nacharam Branch,
Hyderabad.

..... PETITIONER

AND

1. The Deputy General Manager, Andhra Bank, Central Office,

(Head Office), Staff Dept., Opp: Reserve Bank of India,

Saifabad, Hyderabad.

2 Zonal Manager, Zonal Office, Andhra Bank,
Sultan Bazar, Koti, Hyderabad.

3 Branch Manager, Nacharam Branch,
Andhra Bank, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of writ of Mandamus declaring the action of the respondents in not regularising the services of the petitioner as a permanent sub-staff as arbitrary, illegal, violative of Art.14, 16, and 21 of the Constitution of India and to issue a consequential direction of the respondents to regularise the services of the petitioner as a permanent sub-staff.

For the Petitioner: Smt.Kavitha Gottipati, Advocate.

For the Respondents: Mr.Nuty Ram Mohan Rao, Standing Counsel

The Court made the following:

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ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in not regularizing the services of the petitioner as a permanent sub-staff as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India and to issue a consequential direction to the respondents to regularize the services of the petitioner as a permanent sub-staff.

It is the case of the petitioner that he was appointed as a casual labour in Hyderabad Zonal Branch, Andhra Bank in March, 1995. Subsequently, he worked as temporary sub-staff in various branches and presently he is working under the 3rd respondent – Branch Manager. It is stated that the Managers of each branch where the petitioner worked issued certificates indicating the number of days he worked in their branches as a casual labour. It is alleged by the petitioner that about 38 persons, who worked as temporary sub-staff were absorbed and their services were regularized as permanent sub-staff in the month of March 1996 itself but his case was not considered for being appointed as a permanent sub-staff. Therefore, he made several representations to the respondents, invain. He also got issued legal notices to the respondents but there was no response. It is further stated that the petitioner reliably learnt that the 1st respondent issued circulars stating that the persons who worked for 90 days or more as casual labour i.e. temporary sub-staff are entitled for

regularization as permanent sub-staff but the same is not followed by the respondents in his case. Therefore, according to the petitioner, the action of the respondents in not regularizing his services as a permanent sub-staff is arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner. It is *inter alia* asserted that the petitioner worked as a casual labour at various branches of the respondent – Bank in the twin cities in broken spells during the period 1995 to 1997 i.e. after completion of the entire exercise of empanelment of temporary employees in terms of the Approach Paper dated 16-08-1990 issued by the Government of India and the Settlement dated 09-01-1995. Therefore, the petitioner is not entitled to the benefit of the Approach Paper of the Government of India or the Settlement dated 09-01-1995 as he did not put in the stipulated minimum service of 90 days during the period 01-01-1982 and 31-12-1989 as temporary sub-staff. It is further asserted that the allegation of the petitioner that the services of similarly situated persons like him have been regularized as sub-staff in the month of March, 1996 is factually incorrect. None of the empanelled temporary sub-staff of the twin cities has been so far regularized. The persons referred to by the petitioner in his affidavit are all empanelled temporary sub-staff who have put in the stipulated minimum service of 90 days during the period 01-01-1982 to 31-12-1989 and also fulfilled the eligibility criteria for empanelment as per the Settlement dated 09-01-1995. The claim of the petitioner is baseless and the writ petition is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

Admittedly, the petitioner worked as a temporary sub-staff (casual labour) only during the year 1995 to 1997. The Approach Paper dated 16-08-1990 issued by the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) has no application to the facts of the case. It contemplates consideration of the cases of all the temporary employees for the purpose of regularizing their services as permanent sub-staff only if they had put in minimum

service of 90 days or more after the cut off date i.e. 01-01-1982. Further, the memorandum of settlement dated 09-01-1995 arrived at between the Bank and its union under Section 12 (3) of the Industrial Disputes Act, 1947 clearly indicates the eligibility criteria for considering regularization of the sub-staff in the Bank. It contemplates that all those temporary candidates engaged by the Bank between 01-01-1982 and 31-12-1989 and who have responded to the press notification of the Bank dated 28-10-1991 and 31-10-1991 and Circular No. 310, Ref. 3/28 dated 18-10-1991 and who have put in a minimum service of 90 days or more during the said period and whose names are cleared by Directorate General of Employment & Training, Government of New Delhi under the said Approach Paper will be eligible for the benefits under the settlement.

Viewed from any angle, the case of the petitioner is only speculative and imaginary. As the petitioner has joined the services of the Bank only in March, 1995, he has not accrued any right under the above settlement or the said Approach Paper.

For all the aforesaid reasons, the writ petition is devoid of merits and is liable to be dismissed. The Writ Petition is accordingly dismissed. No order as to costs.

However, this order will not preclude the petitioner from making any representation or application to the concerned authorities seeking regularization of his service as a permanent sub-staff under any scheme formulated by the Bank after his engagement in the year 1995. If any such application is made by the petitioner, the same may have to be considered by the authorities and appropriate orders shall be passed as per law.

(C.V. Ramulu, J)

13-06-2005

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To

1. The Deputy General Manager, Andhra Bank, Central Office,

(Head Office), Staff Dept., Opp: Reserve Bank of India,

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4 Two CD copies.